

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

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In re	:	Chapter 9
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CITY OF DETROIT, MICHIGAN,	:	Case No. 13-53846
	:	
Debtor.	:	Hon. Steven W. Rhodes
	:	
	:	
-----X		

**EX PARTE MOTION OF OBJECTORS FOR AN ORDER
AUTHORIZING THEM TO FILE JOINT PRETRIAL BRIEF IN SUPPORT
OF OBJECTION TO DIA SETTLEMENT IN EXCESS OF PAGE LIMIT**

The Objectors¹ hereby move the Court for the entry of an order authorizing them to file their Joint Pretrial Brief in Support of Objection to DIA Settlement (the “Brief”) in excess of one hundred (100) pages.

Jurisdiction and Venue

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding under 28 U.S.C. § 157(b). Venue is proper in this district under 28 U.S.C. §§ 1408 and 1409.

Relief Requested

2. By this *ex parte* motion, the Objectors seek an order authorizing them to file their Brief in excess of one hundred (100) pages.

¹ This motion is joined by Financial Guaranty Insurance Company (“FGIC”), Syncora Capital Assurance Inc. and Syncora Guarantee Inc. (“Syncora”), Wilmington Trust, National Association, as Successor Contract Administrator, Deutsche Bank AG, London; Dexia Crédit Local and Dexia Holdings, Inc., Panning Capital Management, LP, on behalf of funds and accounts managed by it, Monarch Alternative Capital LP, on behalf of funds and accounts managed by it, Bronze Gable, LL.C., Aurelius Capital Management, LP, on behalf of its managed entities, Stone Lion Capital Partners L.P., on behalf of funds and accounts managed by it and BlueMountain Capital Management, LLC on behalf of funds and accounts managed by it.

Basis for Relief

3. The Debtor, City of Detroit, Michigan (the “City”), commenced this Chapter 9 case by filing a petition in this Court on July 18, 2013. (*See* Docket No. 1.)

4. Pursuant to paragraph 7 of that certain Eighth Amended Order Establishing Procedures, Deadlines and Hearing Dates Relating to the Debtor’s Plan of Adjustment, dated August 13, 2014 [Docket No. 6699], parties objecting to the City’s chapter 9 plan of adjustment may file pretrial briefs up to one hundred (100) pages in length.

5. At a status conference on August 6, 2014, this Court ruled that parties could file a motion seeking permission to exceed this page limit. *See* Hr’g Tr. 48:24-49:2 (Aug. 6, 2014). The Court also encouraged parties to file joint briefs, if possible. *See id.*

6. The Brief addresses a number of significant issues pertaining to the “DIA Settlement” (as described in Article IV.E of and Exhibits I.A.118 and I.A.119² to the Sixth Amended Plan of Adjustment of Debts of the City of Detroit (the “Plan”)). The City has hailed this settlement as the “cornerstone” of the Plan and, as a result of the proceedings that have come before it during the past year, the Court is acutely aware that the issues related to the DIA Settlement are some of the most contested in this matter. The Objectors submit that understanding and assessing the reasonableness of the DIA Settlement requires detailed analysis and substantial discussion of the facts and law surrounding the long history of the DIA, its acquisition of art since its inception, and claims that such art and the real property upon which the museum sits are subject to a charitable trust or otherwise protected from monetization to satisfy City obligations. It is essential that this settlement and the parties’ objections thereto are

² The form DIA Settlement documents contained in Exhibit I.A.119, including the (i) Form of Omnibus Transaction Agreement, (ii) Form of Settlement, Conveyance and Charitable Trust Agreement, (iii) Form of Bill of Sale, (iv) Form of Intellectual Property Assignment, and (v) Form of Foundation FDF Agreement, were not filed until August 7, 2014 [Docket No. 6576].

framed for the Court in the most comprehensive manner possible, given the amount of value at stake. Having recently received the form DIA Settlement documentation (*see supra* note 2), and as FGIC's counsel advised the Court at the August 6, 2014 status conference, the Objectors have determined that in order to fully address the issues raised by the DIA Settlement, a request for relief from the page limit is necessary.

7. In an attempt to balance the need to fully address these issues with an appreciation for the potential burden that filing a lengthy brief may impose on the Court's resources, the Objectors are filing the Brief jointly, such that in the aggregate the Brief (which the Objectors anticipate will be between 175-200 pages) is fewer pages than if each Objector filed its own comprehensive brief addressing all of the issues related to the DIA Settlement.³

8. The Brief regarding the DIA Settlement is without prejudice to the Objectors' respective rights to file briefs regarding any other matter at issue with respect to the confirmation of the Plan. Certain of the Objectors intend to file pretrial briefs regarding other objections to the Plan, each of which will be fewer than 100 pages.

WHEREFORE, the Objectors respectfully request that this Court: (i) enter an order substantially in the form attached hereto as Exhibit 1, granting the relief sought herein; and (ii) grant such other and further relief as the Court may deem proper.

³ Although Syncora intends to file a separate pretrial brief in which it will address (among other things) certain issues related to the DIA Settlement, such discussion will not be nearly as detailed or lengthy as the arguments set forth in the Brief.

Dated: August 22, 2014

Respectfully submitted,

/s/ Mark R. James

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SUMMARY OF ATTACHMENTS

The following documents are attached to this Motion, labeled in accordance with Local Rule 9014-1(b).

Exhibit 1	Proposed Form of Order
Exhibit 2	None
Exhibit 3	None
Exhibit 4	Certificate of Service
Exhibit 5	None
Exhibit 6	None

EXHIBIT 1

Proposed Form of Order

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
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-----X
In re : Chapter 9
CITY OF DETROIT, MICHIGAN, : Case No. 13-53846
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**EX PARTE ORDER AUTHORIZING THE
OBJECTORS TO FILE THEIR PRETRIAL BRIEF IN SUPPORT
OF OBJECTION TO DIA SETTLEMENT IN EXCESS OF PAGE LIMIT**

This matter coming before the Court on the *EX PARTE MOTION OF OBJECTORS FOR AN ORDER AUTHORIZING THEM TO FILE JOINT PRETRIAL BRIEF IN SUPPORT OF OBJECTION TO DIA SETTLEMENT IN EXCESS OF PAGE LIMIT* (the “Motion”)¹ and the Court being fully advised in the premises;

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED.
2. The Objectors may file their Joint Pretrial Brief in Support of Objection to DIA Settlement in Excess of Page Limit in excess of the applicable page limitation.

¹ Capitalized terms used and not otherwise defined herein shall have the meanings ascribed to them in the Motion.

EXHIBIT 4

Certificate of Service

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

-----X	:	
In re	:	Chapter 9
	:	
CITY OF DETROIT, MICHIGAN,	:	Case No. 13-53846
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CERTIFICATE OF SERVICE

I hereby certify that on August 22, 2014 the *EX PARTE MOTION OF OBJECTORS FOR AN ORDER AUTHORIZING THEM TO FILE JOINT PRETRIAL BRIEF IN SUPPORT OF OBJECTION TO DIA SETTLEMENT IN EXCESS OF PAGE LIMIT* was filed and served via the Court's electronic case filing and noticing system to all parties registered to received electronic notices in this matter.

Dated: August 22, 2014

/s/ Mark R. James
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